

COOPER v. PATE, WARDEN.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

No. 1134, Misc. Decided June 22, 1964.

Certiorari granted and judgment reversed.

Reported below: 324 F. 2d 165.

Alex Elson and Bernard Weisberg for petitioner.

William G. Clark, Attorney General of Illinois, and *Raymond S. Sarnow* and *Edward A. Berman*, Assistant Attorneys General, for respondent.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted.

The petitioner, an inmate at the Illinois State Penitentiary, brought an action under 28 U. S. C. § 1343 and 42 U. S. C. § 1983, § 1979 of the Revised Statutes, alleging that solely because of his religious beliefs he was denied permission to purchase certain religious publications and denied other privileges enjoyed by other prisoners. The District Court granted the respondent's motion to dismiss for failure to state a claim on which relief could be granted and the Court of Appeals affirmed. 324 F. 2d 165 (C. A. 7th Cir.). We reverse the judgment below. Taking as true the allegations of the complaint, as they must be on a motion to dismiss, the complaint stated a cause of action and it was error to dismiss it. See *Pierce v. LaVallee*, 293 F. 2d 233 (C. A. 2d Cir.); *Sewell v. Pegelow*, 291 F. 2d 196 (C. A. 4th Cir.).